

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**JANICE HARGROVE WARREN**

**PLAINTIFF**

**v.**

**Case No. 4:19-cv-00655-BSM**

**CHARLES MCNULTY, et al.**

**DEFENDANTS**

**PLAINTIFF'S BRIEF IN SUPPORT OF HER UNOPPOSED MOTION FOR AN ORDER  
MODIFYING SUBPOENAS COMMANDING WITNESSES TO APPEAR FOR TRIAL**

**BACKGROUND**

This matter is an employment discrimination, Title VII, 42 U.S.C. §§ 1981 and 1983, and breach of contract case brought by Dr. Janice Warren (“Dr. Warren”), Assistant Superintendent for Equity and Pupil Services (“Asst. Sup. Equity”) and former Interim Superintendent, against her employer Pulaski County Special School District (“PCSSD”). This Court has subject matter jurisdiction over this cause of action under 28 U.S.C. § 1331 because it is a civil action arising under the laws of the United States, specifically 42 U.S.C. §§ 1981, 1983, 2000e-2(a)(1), 2000e-2(a)(2), 2000e-3(a), and 2000e-5(f)(1). Furthermore, this Court has Supplemental Jurisdiction over Dr. Warren's State law claim against PCSSD pursuant to 28 U.S.C. § 1367(a).

This Court scheduled the trial of this matter before a jury for the week of September 20, 2021. On September 15, 2021, this Court continued the trial to an agreed-upon date but no earlier than November 1, 2021. In preparation for her trial, plaintiff served sixteen witnesses with subpoenas pursuant to Fed. R. Civ. Pro. 45; 9A Fed. Prac. & Proc. Civ. § 2461 (3d ed. April 2021) (a party may command the attendance of a witness for any reason). Each subpoena complied with the requirements of Fed. R. Civ. Pro. 45 (a)(1) and commanded the person to

whom it was directed to appear on a specified date and time during the week of September 20, 2021. Fed. R. Civ. Pro. 45 (a)(1)(A)(iii); 9A Fed. Prac. & Proc. Civ. § 2455 (3d ed. April 2021). The cost for service of each subpoena ranged from \$60 per subpoena to \$75. The continuance of the trial abrogates the effectiveness of the command stated in the previously issued and served subpoenas. On a timely motion, the district court has the power to modify a subpoena that subjects a person to an undue burden. *See, generally*, Fed. R. Civ. Pro. 45 (d)(3)(iv).

Reissue of subpoenas would impose an undue burden on the plaintiff and increase her costs to obtain the appearance of her witnesses. Plaintiff respectfully requests this Court to extend the command of her duly issued and served subpoenas to each witness by ordering their appearance during the week of the new trial date. The plaintiff will notify her subpoenaed witnesses that their attendance during the week of September 20, 2021, is excused and their attendance for the week of the new trial date is commanded by modification of the subpoena.

### **CONCLUSION**

To facilitate the orderly and expeditious processes of the trial of this matter, the plaintiff exercised diligence to serve her witnesses with subpoenas in advance of trial. Therefore, plaintiff requests this Court to extend the command of the duly issued and served subpoenas consistent with the Court's continuance of the trial date in this case.

Respectfully submitted this 16th day of September, 2021,

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